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SUBJECT: MEXICAN JUDICIAL AND EXECUTIVE AUTHORITIES
REINSTATE DEPOSED LEADER OF NATIONAL MINERS, UNION

REF: (A) 06 MEXICO 6655 (B) 06 MEXICO 6750 (C) MEXICO

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1. SUMMARY: In a series of ongoing events, Mexican authorities temporarily reinstated Napoleon Gomez Urrutia as the leader of the National Miners Union, SNTMMSRM. This reinstatement was followed by a national SNTMMSRM convention on April 17, 2007, in which Gomez was then definitively reaffirmed as the leader of the Miners, union. For now, the authorities have left open the questions of the validity of the outstanding embezzlement charges against Gomez for allegedly mishandling 55 million dollars in union pension funds; or who to hold accountable for the apparently fraudulent documents that formed the basis for Gomez, 2006 removal from office. The consequences of the decision to reinstate Gomez potentially have consequences for both the US and Mexico. For the US, Gomez,s deposition is the subject of a submission filed by United Steel Workers under the terms of the NAFTA side agreement on labor. For Mexico, the main opposition political party believes the country,s former President and various members of his administration should face criminal fraud charges. END SUMMARY.

Background

2. A long running dispute between two leaders within Mexico,s National Union of Miners and Metalworkers, SNTMMSRM, took a sharply different turn in February 2006 when the administration of then President Vicente Fox became involved. The leaders in question are Napoleon Gomez Urrutia; the then officially recognized head of the Miners Union, and a continual rival, Elias Morales Hernandez, a long-time union official. The critical phase of the struggle between these two men appears to have begun in 2002 when both ran to become SNTMMSRM Secretary General, the union,s top elected executive position. In this fight for union leadership Gomez Urrutia,s main claim to fame was that he was the son of the previous Secretary General, Napoleon Gomez Sada. Morales, principal argument as to why he should be Secretary General was that he had served for years as Gomez

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Sada,s main assistant during much of the former leader,s time as head of the union. Ultimately Gomez won and became

the Secretary General of the SNTMMSRM.

13. After having served for four years as the recognized head of the Miners, union, Gomez was ousted from his position as Secretary General by Morales and his supporters on the

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union,s internal affairs unit, the Council on Vigilance and Justice (CVJ), with the concurrence of the Fox administration,s Labor Secretariat (STPS). The basis for Gomez, removal was an allegation that he embezzled USD 55 million in union pension funds. The allegation was supported by a document that reportedly contained the signatures of the five members of the CVJ. At the time at least two members of the CVJ claimed that their signatures had been forged but no actions were taken to verify these claims. Instead, the Fox administration Labor Secretariat withdrew its recognition of Gomez as the head of the SNTMMSRN, supported various charges against him in both state and federal courts and declared Morales the new Secretary General of the miners, union. In response to this GOM action, Gomez fled to Canada where has continually proclaimed his innocence. However, Gomez has never provided a convincing accounting of what happened to the USD 55 million he allegedly mishandled and which was last seen in one of the Mexican branches of a Canadian bank. This entire affair took another bizarre turn in February 2007 when the Governor of the northern Mexican state of Coahuila accused now former President Fox of pressuring him in 2006 to falsely accuse Gomez in a mine explosion which killed 65 people as further proof as why he was stripped of his union leadership position.

14. Gomez, removal as the leader of the miners, union generated a considerable amount of interest and controversy in labor circles both within Mexico and internationally. Most, although certainly not all, of the rank and file of the Miners, union continued to support Gomez. Many of Mexico,s more established unions came out in support of Gomez. On the other hand, the CT (Congress of Labor), perhaps Mexico,s largest federation of labor unions, is divided over whether Gomez should be restored to his leadership position despite the fact that the SNTMMSRN is a member of this coalition.

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Internationally, the United Steelworkers unions (USW) in both the US and Canada strongly support Gomez. The USW went so far as to file a public submission on SNTMMSRN's behalf under the terms of the North American Agreement on Labor Cooperation (NAALC), a side agreement to NAFTA. Moreover, Gomez received considerable support from the International Metalworkers Federation.

A New Administration Views The Case Differently

15. The question of who was the real leader of the miners, union was one of the two major unresolved labor issues that the outgoing Fox administration passed to its successor, the government of now President Felipe Calderon in December 2006.

Once in office the Calderon government, particularly the Secretary of Labor, Javier Lozano, moved quickly to solve the

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problem of miners, union leadership dispute. According to what a senior STSP official diplomatically told post,s Labor Counselor, the Calderon government believed that the problems in the miners union were not handled as well as they could have been by the previous administration. (Post notes that both the former and the current administrations belong to Mexico,s National Action Party (PAN).) The official implied that the Fox administration needlessly took sides in an internal union matter and then essentially cut off communication with one side of the dispute. At the time of the conversation with Labor Counselor in January 2007, the official stated that the new administration had already reestablished full communication with both sides and the

Labor Secretary Lozano,s plan was to eventually call for a new national convention that would? properly determine the leadership of the miners, union.

Judicial and Executive Authorities Begin To Move

¶6. In late February media reports began to surface indicating that the Calderon government had decided to investigate the 2006 claims made by members of the CVJ that signatures on the document accusing Gomez of embezzlement had been forged. Once the investigation began it was not long before unofficially released results supported the claims of forged signatures. By mid-March GOM investigators officially declared that the signatures had been forged. The results of this investigation were immediately turned over to the PGR, the Mexican equivalent of the US Attorney General,s Office, and to the appropriate judicial authorities for labor matters. The PGR began its own investigation to prepare a case to bring criminal fraud charges, and the judicial authorities began deliberation on an appeal by Gomez, lawyers to overturn the previous administration,s decision to depose him from his union leadership position and to fully reinstate him as the SNTMMSRN Secretary General.

¶7. On April 13 2007, following several weeks of deliberation, the Fourth Court of the Mexico City First Labor Circuit ruled that Napoleon Gomez Urrutia had been improperly removed from his union position and that he should be reinstated as SNTMMSRN no later than three work days following the court decision. The court decision very clearly did not rule that Gomez was the undisputed leader of the miners, union but only that there was no basis for removing him from the position the GOM had previously officially recognized in 2002. Moreover, since this was a labor and not a criminal court it took no position on the still pending embezzlement against Gomez.

¶8. Within 72 hours of the Labor Court,s ruling, on April 16, 2007 the STSP issued a statement indicating that in compliance with the judicial determination it was withdrawing its recognition of Elias Morales as leader of the miners, union and reinstating Gomez as SNTMMSRN Secretary General. The Labor Secretariat,s statement reinstating Gomez very specifically indicated that the STSP decision was an administrative ruling that had no impact on the still pending embezzlement charges against Gomez, nor any bearing on whatever outcome the PGR might eventually make in determining culpability with regard to the forged signatures which clearly favored Elias Morales. In separate action the Labor Secretariat also moved to support an immediate (i.e. on April

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17, 2007) &extraordinary national convention⁸ of the SNTMMSRN to determine the legitimate Secretary General of the

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miners union. According to media reports representatives of the USW and the International Metalworkers Federation are scheduled to attend the convention.

Stranger Than Fiction

¶9. At the same time as the events in the Labor Court and STSP, unusual occurrences were taking place at the PRG. Shortly before the Labor Court made its ruling that Gomez appeal the investigation into the forged signatures that formed the basis of his removal from union office came to a screeching halt when all supporting case files gathered to date were mysteriously stolen. Leaders from all of Mexico,s major political parties expressed disbelief that such a robbery could occur at the offices of the GOM agency responsible for investigating crime. The investigation of the forged signatures has been placed on hold and separate investigation has been launched into the theft of the missing

case files.

Main Opposition Party Outraged

¶10. The Party of the Democratic Revolution (PRD) has expressed outrage at the handling of the entire miners, union affair. According to the PRG the ruling by the Labor Court is solid evidence that the Fox administration acted illegally when it removed Gomez Urrutia from his union leadership position. In addition, a leading PRD Senator said the court ruling gives further credence to the accusation made in February by the Governor of Coahuila when he accused former President Fox of pressuring him in 2006 to falsely accuse Gomez of culpability in a mine explosion that resulted in 65 deaths. Consequently, the PRD Senator said, his party was filing criminal fraud charges in both federal and Coahuila state courts against former President Fox and his then Labor Secretary, Francisco Salazar.

¶11. Former Labor Secretary Salazar has denied any knowing participation in errors resulting from the presentation of forged CVJ signatures. According to Salazar, he had no way of knowing the signatures were forged, if that is in fact the case. For his part, former President Fox has expressed no concern over the matter and has said that Gomez, his supporters and the PRD should take whatever action they believe is necessary.

Comment

¶12. The extraordinary national convention to elect a new Secretary General is still on going but it has already

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reaffirmed Napoleon Gomez Urrutia in his position as union leader. Interestingly, Gomez is still in Canada and is not expected to return to Mexico for some 30 days while the other outstanding federal and state charges against him are resolved. Most of the accusations stem from the charge that Gomez has not fully accounted for the missing US 55 million from the union pension fund. Gomez, lawyer claims that he can prove that between USD 24-30 million of the so-called alleged missing money has been distributed to union workers and that the rest is currently in seven frozen bank accounts that can be reviewed at any time.

¶13. While the miners, union leadership saga is being played out, other union and political actors are asking why federal authorities (of the previous administration) moved so quickly against Gomez while they were unable to even hold on to the evidence of criminal fraud that could implicate Mexico, former president and the members of his administration. At present all publicly available information indicates the possibility that some members of the previous administration may have knowingly committed fraud. Opposition PRD politicians have been the most outspoken in condemning the lack of action against officials of the former administration but various media opinion leaders have expressed concern over what type of message will be sent about the rule of law in Mexico if no one is held accountable for willfully committing criminal fraud.

¶14. The actions of the current GOM judicial and executive authorities to reinstate Napoleon Gomez Urrutia should

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satisfy interested observers in the US and abroad that Mexican institutions are up to the task of taking self corrective actions. Consequently, it seems unlikely that the USG will have to take any substantive actions in response to the submission filed by the USW under the terms of the NAALC on behalf of the SNTMSRM.

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